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FOR OES/ENRC SSEYMOR

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SUBJECT: COLOMBIA: INFORMATION REGARDING ACCESS TO GENETIC  
RESOURCES

REF: STATE 9667

¶1. (SBU) SUMMARY. Decree 309 of 2000 establishes the GOC's regulatory framework for research collection and access to genetic resources. Every researcher must have a permit to collect, as well as an additional permit or "contract" to access genetic or biological material. National, regional and local authorities are authorized to issue permits, with the Ministry of Environment (MOE) as the lead policy entity. While the process for collection permits functions, albeit slowly, it is nearly impossible for researchers to acquire the additional permit required to actually access the specimen's biological or genetic material due to bureaucratic inefficiencies and MOE fears about relinquishing rights to researchers who could commercially exploit Colombian patrimonial resources. Our contacts told us that therefore most researchers carry out that component of their research illegally, without official permission. The process becomes even more complicated if one wants to collect or research near indigenous or Afro-Colombian lands, due to unique legal protections pertaining to those areas. FAS is still gathering information regarding the agricultural research, and will provide its findings via a subsequent email to OES/ENRC. END SUMMARY.

#### Legislation and Regulation

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¶2. (U) Permits for Collection: All researchers (both foreign and domestic) must have a permit to collect biological or genetic specimens in Colombia. The collection permit issuing process is multi-level. The MOE's Direction of Permits and Licensing, regional development corporations (CARs), and the municipal authorities in cities with populations exceeding 1 million inhabitants, are authorized to issue permits. (NOTE: CARs are administratively and financially independent regional institutions in charge of implementing national policies and regulations within their boundaries. END NOTE.) The MOE issues permits for research occurring in two or more departments, a CAR issues permits when research occurs solely in its department, and municipal authorities are responsible for licenses pertaining to small-scale research in specific city domains.

¶3. (SBU) The MOE is the lead policy agency on genetic resources, but it cannot overcome permit decisions made at the regional or local levels. The employees of Government of Colombia (GOC) research institutions -- Humboldt Institute, Sinchi, Invermar -- do not need permits, which often creates an imbalance in the system. After receiving all the required documents, it normally takes the MOE approximately four months to issue a collection permit, and most permits are

issued on a researcher basis, rather than by projects. Three well-known academic institutions -- Los Andes, Nacional and Javeriana -- are presently collaborating with the MOE to receive blanket collection permits for both faculty and students for specific sites or projects.

14. (SBU) Permits for Research or Access to Genetic Resources:

An additional permit, which the MOE calls a "contract," is required to research or access genetic resources (DNA) of specimen collected in Colombia. The Director of the MOE's Licensing and Permit Department Jhon Marmol told us that the MOE, which is the only entity authorized to issue contracts, has issued 23 contracts since 1997. Marmol suggested that Andean countries are more regulated in this area than other countries due to the Cartagena Protocol on Biosafety, with Colombia being the only Andean signatory country thus far to issue genetic material access contracts. Gonzalo Andrade, a Life Science professor at Universidad Nacional and one of the Convention on Biological Diversity (CBD) National Contacts for Colombia, added that 90 percent of researchers illegally access genetic resources, due to the additional time and financial resources needed to obtain a contract.

15. (SBU) Marmol told us the MOE simply did not have the personnel to issue high numbers of contracts, especially since they are hesitant to approve paperwork that might enable researchers to legally "rob" and exploit Colombia of its national resources. The MOE technically has sanction ability against researchers without contracts, but the MOE has yet to impose such a fine. Marmol admitted that Colombia's geography makes it impossible for the MOE to

control the activities of all the researchers. The Ministry of Commerce (MOC) is responsible for issuing contracts for research with commercial ends, which Marmol told us has occurred a handful of times but he did not have specific numbers. Without a genetic contract, neither researchers nor organizations can patent derivative products, which makes the number of local genetic-based patents nearly non-existent. Andrade added that most other Central and Latin American countries do not have such stringent regulations, which often leads to researchers illegally taking specimens out of Colombia, or prevents them from carrying out research in the country.

16. (SBU) Indigenous and Afro-Colombian Lands: Andrade told us that further complications arise if a researcher needs to collect specimens near indigenous or Afro-Colombian lands. (NOTE: Per Law 70, indigenous and Afro-Colombian communities have special rights, including land ownership. The communities must be consulted in any activity that affects their land. END NOTE.) While researchers must normally submit an authorizing letter from the Ministry of Interior stating that the research will not occur near indigenous or Afro-Colombian land to receive a collection permit or genetic contract, those researchers who do propose to collect specimens near indigenous or Afro-Colombian lands must obtain written consent from the local elders or tribal leaders to undergo the research. Andrade said that this is the most time-consuming and financially constraining component of the permit process, regardless of the type of permit being solicited. He said that this alone can prolong the collection permit process to over a year, which unfortunately results in a lack of research near those areas. Marmol agreed that due to the additional legal requirements, little research occurs near indigenous or Afro-Colombian areas.

Movement of Biological Specimens  
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17. (SBU) The MOE is also responsible for issuing all export and import permits for specimens with scientific ends. As there are no rules for the internal shipment of specimens, they can be shipped throughout departments -- provided that the initial collection permit is valid -- without additional paperwork. However, each collection permit states the location of the collection. If that location changes, then

the researcher must obtain a new permit before proceeding. The main step in receiving an MOE export permit for specimens intended for scientific use is a registration paper provided by the GOC's biodiversity research center known as the Humboldt Institute. The Humboldt Institute registers and documents the specimen before it can be shipped abroad. Per Colombian law, every specimen sent abroad for scientific purposes must return to Colombia. Colombian researchers and institutions can loan specimen, but they can never donate them permanently to a foreign country or institute. The Ministry of Commerce (MOC), however, has the authority to issue commercial export and import licenses for specimens not listed in the Convention on International Trade in Endangered Species (CITES) once a researcher is in possession of all other required permits or contracts. However, according to Andrade, there is no record of the MOC ever issuing such a commercial export or import license.

#### Status of MAT and PIC -----

18. (SBU) The MOE is responsible for Mutually Agreed Terms (MAT) and Prior Informed Consent (PIC), and has an informal committee for developing MAT and PIC processes. There are no specific laws regulating the processes, and the MOE has no plans to develop such legislation. However, prior to issuing each contract the MOE holds a negotiating meeting with the involved researchers or institutions. The MOE intends to seek monetary benefits from researchers within the next few years, but presently it only negotiates for non-monetary benefits from researchers such as follow-up workshops and publication of research findings. Most of the GOC CBD reps, except for Professor Andrade, hold senior policy positions and it remains unclear to what extent they follow technical CBD issues. At the technical level, however, experts such as Director Marmol, are readily accessible and knowledgeable of CBD developments. Post will fax to OES/ENRC the general information that the MOE gives to foreign researchers seeking

to obtain permits. More information can be found on the MOE's website at [www.minambiente.gov.co](http://www.minambiente.gov.co), under the tab for the Direccion de Licencias, Permisos y Tramites, and on the MOC's website at [www.vuce.gov.co](http://www.vuce.gov.co).

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